



## Proposed Regulation Agency Background Document

<b>Agency name</b>	Department of Criminal Justice Services
<b>Virginia Administrative Code (VAC) citation</b>	6 VAC 20-80 et al.
<b>Regulation title</b>	Rules Relating to Certification of Criminal Justice Instructors
<b>Action title</b>	Instructor Certification Rules
<b>Document preparation date</b>	1/9/06

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

This regulation needed reviewing because it was determined that certain current requirements were not effective. An advisory committee representing all interested groups assisted with the review. The committee members were Chief Charles Bennett, Lynchburg PD; Chief Mike Yost, Williamsburg PD; Sheriff Kermit Osborne, Wythe County; Sheriff B. J. Woodley, Brunswick County; Mr. Vince Ferrara, Hampton Roads Regional Criminal Justice Academy; Major Joe Ryan, Prince William Criminal Justice Academy; Captain G. Daniels, Virginia State Police Academy; Mr. Lance Forsythe, Southside Regional Jail.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

- (1) Relevant Law: § 9.1-10(5)
- (2) Promulgating entity: Criminal Justice Services Board
- (3) The board has the authority to establish training standards as necessary

**Purpose**

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.*

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- (1) These rules were last amended in 1992. Over the years we have discovered that some of the standards do not necessarily enhance the ability of instructors to conduct training.
- (2) The goal of these changes is to enhance the effectiveness of instructors.

**Substance**

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)*

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The current re-certification requirements do very little to enhance instructor capability. An approach allowing certified training academies to formulate their own program for re-certification of instructors is believed to be more effective. This program will be subject to scrutiny during academy re-certification.

**Issues**

*Please identify the issues associated with the proposed regulatory action, including:*  
*1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*  
*2) the primary advantages and disadvantages to the agency or the Commonwealth; and*  
*3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

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- 1) An indirect advantage to the public may be increase effectiveness of criminal justice instructors, there by increasing the effectiveness of criminal justice training.
- 2) The primary advantage to the certified training academies is the ability to tailor re-certification training to the specific needs of their instructors.
- 3) None

**Economic impact**

*Please identify the anticipated economic impact of the proposed regulation.*

<b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b>	None
<b>Projected cost of the regulation on localities</b>	None
<b>Description of the individuals, businesses or other entities likely to be affected by the regulation</b>	None
<b>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.</b> Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	None
<b>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</b>	None

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.*

Consideration was given to exploring possible deregulation in this area. However, this was not recommended nor condoned by the Advisory Committee. The Committee chose to recommend an individual academy approach to determine if or what methods may be appropriate for statewide use at a later time.

**Public comment**

*Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.*

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
Chief Jacocks, Virginia Beach Police	We concur with the suggestion that a certified instructor receive in-service credit for training on an	NA

<p>Department</p>	<p>hour-for-hour basis. Understanding the maximum is 16 hours for in-service credit within a two-year period.</p>	
<p>Chief Jacocks, Virginia Beach Police Department</p>	<p>We support the suggestion that any and all certifications for instructor become null and void within the department when that department no longer employs said instructor.</p>	<p>NA</p>
<p>Chief Jacocks, Virginia Beach Police Department</p>	<p>Given the commitment we have made to provide instructor training and the implementation of the Systematic Design of Instruction, the suggested two-hour training for recertification does not meet the standards we have set for ourselves. While we are working toward an eight-hour recertification class, which would allow for in class updates to lesson plans, we would suggest a minimum of four as a state standard.</p>	<p>The committee recommended no change. DCJS concurs with the committee recommendation</p>
<p>Colonel Flaherty, Virginia State Police</p>	<p>6 VAC 20-80-40, "Instructor apprenticeship requirements", section A., page 5, proposes increasing the apprenticeship hours to 16 for any specialty or skill area except for radar. The specialty instructor schools held at the State Police Academy are designed to identify strong and capable instructor candidates and note those that should not be certified. The current apprenticeship standards meet our agency's needs.</p>	<p>The committee decided that two full days of an apprenticeship could be burdensome. Therefore the committee recommended that this requirement be changed to 8 hours for any specialty skill area except radar. DCJS concurs with the committee recommendation.</p>
<p>Colonel Flaherty, Virginia State Police</p>	<p>6 VAC 20-80-50, "Exemptions to certification requirements", item 6, page 6, proposes that subject matter experts "certification" expire after two years after being hired by the agency. Currently, the Department of Criminal Justice Services does not recognize and grant instructor certification to non-sworn (civilian) employees. We rely on individuals to instruct as subject matter experts for significant areas such as legal who are civilian employees. A two-year timeframe would greatly impede our Academy's instructorship productivity. This comment was combined with the following issue: <b>ISSUE:</b> Instructor question: Currently, the term Subject Matter</p>	<p>This issue generated extensive discussion. The discussion was combined with several issues related to instructor status. The draft currently <i>"Requires the applicant to be an employee of a Virginia criminal justice agency, academy instructional staff or an academy director."</i> Although the rule states that any employee of a Virginia criminal justice agency, academy instructional staff or an academy director may become an instructor, most civilian employees that conduct mandated training have a very narrow area of expertise. A general instructor, on the other hand, is certified to conduct mandated training on any topic except the specialty areas. In most instances, a civilian does not have the training or experience of a sworn officer. The committee recommended that the wording be changed as follows: <i>"Requires the applicant to be a sworn officer or an employee of a Virginia</i></p>

	Expert applies only to individuals who are not under the purview of DCJS. Individuals who are under the purview of DCJS must be certified instructors to conduct mandated training.	<i>criminal justice agency, academy instructional staff or an academy director. Non sworn employees may apply for general instructor certification provided that they only conduct training in their particular area of expertise.</i> ” DCJS concurs with the committee recommendation
Chief Jacocks, Virginia Beach Police Department	6 VAC 20-80-20 Compulsory minimum training standards for instructors: We support the suggestion that any and all certifications for instructor become null and void within the department when that department no longer employs said instructor.	The committee recommended no change. DCJS concurs with the committee recommendation

NA

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability.*

The impact on the family is indirect. Quality instruction in any area of law enforcement training is desired and requiring instructors to meet minimum requirements for re-certification in order to deliver quality training is the goal. Good instructors tend to produce better-trained officers who may have an impact on a family.

**Detail of changes**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
20-80-10		Defines the terms used in these rules	Update definitions in order to clarify how process should work
20-80-20		Describes the process for obtaining provisional instructor status	The advisory committee recommended the deletion of provisional status, since it would allow an officer to instruct for two years with any instructor training.

20-80-30, B.		Defines requirements for instructor re-certification	Allows the academy director to determine the criteria for instructor re-certification training.
20-80-40		Describes the criteria for instructor apprenticeships	Strengthens the requirements for instructor apprenticeships in critical, high liability topic areas.
20-80-60		Describes the process for submitting instructor applications	Simplifies the process of submitting instructor applications.
20-80-70		Describes application process for instructor re-certification	Eliminates the need to submit instructor applications for re-certification due to the ability to accomplish this electronically.
20-80-80		Describes process for suspension or revocation	Clarifies the difference between instructor revocation and an instructors status when no longer employed.